IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

WP(C).No. 23435 of 2007(M)

PETITIONER:

MARY P.M., AGED 35 YEARS,
W/O.NAISAL GEORGE,BOMBAY NIVAS,
MARIAKUTTY JOHN ROAD,ERNAKULAM DISTRICT.

BY ADV. SMT.DAISY A.PHILIPOSE
SRI.GOVIND K.BHARATHAN

RESPONDENTS:
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1. THE DISTRICT EDUCATIONAL OFFICER,
ERNAKULAM.

2. THE CORPORATE EDUCATIONAL AGENCY,
ARCHDIOCESE OF VERAPOLY,ST.ALBERT'S
H.S.S. CAMPUS, ERNAKULAM, KOCHI-682 018.
REPRESENTED BY ITS GENERAL MANAGER.

BY GOVT. PLEADER SRI. A.J. VARGHESE
ADV. SRI.P.GEORGE WILLIAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO 23435/07

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. COPY OF THE APPOINTMENT ISSUED BY THE 2ND RESPONDENT DT. 18.6.07

EXT.R2-1. COPY OF THE LETTER NO.A-3696/07 DT. 27.7.07

EXT.R2-2. COPY OF LIST OF CANDIDATES DT. 21.11.98

EXT.R2-3. COPY OF APPOINTMENT ORDER NO.A-3602/06 DT. 10.7.06

EXT.R2-4. COPY OF ORDER NO.B1/7579/06 KD IS DT. 28.10.06

EXT.R2-5. COPY OF ORDER NO.B2-25256/06 DT. 18.7.07

/TRUE COPY/

PA TO JUDGE.

A.K. BASHEER, J.

W.P.(C). NO. 23435 OF 2007

Dated this the 21st day of August, 2007

J U D G M E N T

Petitioner claims that she was appointed as High School Assistant (S.S.) in St. Albert's Higher Secondary School in a permanent vacancy with effect from June 18, 2007, as can be seen from Ext.P1.

2. According to the petitioner, she had worked in the same school in a temporary vacancy as well. However, the present grievance of the petitioner is that approval of her appointment is being delayed without any justifiable reasons. Therefore she prays for an appropriate direction to respondent No.1 to approve her appointment. There is a further prayer to issue a direction to respondent No.2 not to terminate her service in order to accommodate another teacher.

3. In the counter affidavit filed by respondent No.1, it is averred that proposal for approval of appointment can be considered only if the post is sanctioned in the school for the academic year 2007-08. To be precise, approval can be granted only after issuing the staff fixation order. The delay for approval had occurred only because of the above reason.

4. However, in the counter affidavit filed by respondent No.2 it is stated that the order of appointment was issued to the petitioner by mistake, overlooking a rule 43 claimant and also other eligible candidates.

Therefore, the manager had in fact sent Ext.R2(1) communication to the controlling officer requesting him to return the proposal for approval of appointment in respect of the petitioner “apparently to rectify certain discrepancies in the appointment.”

5. Learned counsel for the petitioner submits that the “turn-around” now being made by the manager is totally mala fide. Anyhow, I do not propose to deal with the above contentions raised either by the petitioner or by the manager at this stage. In my view the issue has to be considered by the controlling officer at the appropriate stage. As mentioned earlier, the Department is awaiting the order of staff fixation in the school. The controlling officer shall ensure that he shall take a decision in the matter, as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment after affording sufficient opportunity of hearing to the petitioner, the manager and all others who are likely to be affected by the order that may be passed in the matter. It will be open to the petitioner and the manager to produce all relevant materials before the officer concerned to substantiate their rival contentions.

The writ petition is disposed of as above.

A.K. BASHEER, JUDGE

vps

A.K. BASHEER, JUDGE

OP NO.20954/00

JUDGMENT

1ST MARCH, 2007